

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK COLSTON,

Case No. 1-02-CV-779

Plaintiff,

Hon. Richard Alan Enslen

v.

DIANE REDICK, sued in her
individual and official capacity,

ORDER

Defendant. /

This matter is before the Court on Plaintiff Mark Colston's (fourth) Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b)(2) and (3).

Motions pursuant to Rule 60(b)(2) and (3) must be made "not more than one year after the judgment, order or proceeding was entered or taken." FED. R. CIV. P. 60(b). Plaintiff brings his Motion more than one year after the March 30, 2005 Judgment. Therefore, Plaintiff's Motion under Rule 60(b)(2) and (3) must be denied. Further, even if the Motion is construed under Rule 60(b)(6), which is not subject to a one year limitation, Plaintiff fails to show "exceptional circumstances" warranting relief. *See Jinks v. AlliedSignal, Inc.*, 250 F.3d 381, 387 (6th Cir. 2001); *Blue Diamond Coal. Co. v. Trustees of UMWA Combined Ben. Fund*, 249 F.3d 519, 524 (6th Cir. 2001); *Olle v. Henry & Wright Corp.*, 910 F.2d 357, 365 (6th Cir. 1990).

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Mark Colston's Motion for Relief from Judgment (Dkt. No. 153) is **DENIED**.

Dated in Kalamazoo, MI:
February 16, 2007

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge